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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,800	11/24/2003	Donna K. Hodges	BS030349	5440
38516	7590	02/01/2008		
SCOTT P. ZIMMERMAN, PLLC			EXAMINER	
PO BOX 3822			SIKRI, ANISH	
CARY, NC 27519			ART UNIT	PAPER NUMBER
			2143	
			MAIL DATE	DELIVERY MODE
			02/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,800

Applicant(s)

HODGES ET AL.

Examiner

Anish Sikri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-13,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-13,15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/09/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 11/9/2007 been considered by the Examiner and made of record in the application file.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/09/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims **1, 2, 10, 11, 12, 15, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al (US Pub 2003/0093790), in view of Ando (US Pub 2003/0126610).

Consider Claim 1, Logan et al discloses the preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request (Logan et al, [0065], [0096]-[0101]); sending a reservation to reserve a routing path (Logan et al, [0050]-[0051]), the reservation instructing a device to only accept packets of data destined for that routing path (Logan et al, [0299]), and recursively segmenting the data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented (Logan et al, [0067]-[0070], [0080]-[0086]); when a processing service is required, then grouping together individual packets of data as a new segment (Logan et al, [0065], [0096]), each of the individual packets in the new segment requiring the processing service (Logan et al, [0065], [0096]); dispersing the new segment via a network to receive the processing service (Logan et al, [0065], [0096]); receiving a result of the processing service (Logan et al, [0065], [0096]-[0101]); assembling formatted data comprising the result of the processing service and at least

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one of the recursively segmented segments (Logan et al, [0065], [0096]-[0101]); and communicating the formatted data to fulfill the request (Logan et al, [0067]-[0070], [0080]-[0086]).

But Logan et al fails to disclose a method of providing communications services, comprising receiving a request for data, assessing in real-time an availability of network routing to fulfill the request; assessing in real-time an availability of network bandwidth to fulfill the request; the reservation specifying a window of time in which the packets of data are received and processed; receiving a data stream to fulfill the request.

Nonetheless, Ando discloses a method of providing communications services, comprising receiving a request for data, assessing in real-time an availability of network routing to fulfill the request (Ando, [0090]-[0094]); assessing in real-time an availability of network bandwidth to fulfill the request (Ando, [0090]-[0094]); the reservation specifying a window of time in which the packets of data are received and processed; receiving a data stream to fulfill the request (Ando, [0090]-[0094]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate reliable real-time communications between the provider and the subscriber, taught by Ando, in the system of Logan et al, for providing communication services which involve segmentation, dispersion, and assemblage of data.

Consider Claim 2, Logan et al in view of Ando discloses wherein ascertaining the preferred scenario comprises assessing a highest quality scenario and a lowest cost

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scenario (Logan et al, [0065], [0096]-[0101]), the highest quality scenario describing a combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation (Logan et al, [0065], [0096]-[0101]), and the lowest cost scenario describing another combination of segmentation, dispersion, and assemblage of segments that achieves a lowest cost, despite degraded quality (Logan et al, [0065], [0096]-[0101]).

Consider Claim 10, Logan et al in view of Ando, discloses the method according to claim 1, further comprising ascertaining a highest quality scenario that describes a combination of segmentation dispersion, and assemblage of segments that achieves a highest quality of presentation (Logan et al, [0065], [0096]-[0101]).

Consider Claim 11, Ando in view of Logan et al discloses the method according to claim 1, further comprising ascertaining a lowest cost scenario that describes a combination of segmentation, dispersion, and assemblage of segment that achieves a lowest cost (Logan et al, [0065], [0096]-[0101]).

Consider Claim 12, Logan et al in view of Ando, discloses the method according to claim 1, further comprising ascertaining a most profitable scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a highest profit (Logan et al, [0065], [0096]-[0101]).

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Claims 15, 16 have similar limitations as to claim 1, therefore, they both are rejected under the same rational as to claim 1.

Claims **4, 5, 6, 7, 8, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (US Pub 2003/0126610), in view of Logan et al (US Pub 2003/0093790), and in further view of McKinnin et al (US Pat 6917628).

Consider Claim 4, Logan et al in view of Ando, fails to disclose the method according to claim 1, comprising issuing an assertion to a subcontractor that indicates the subcontractor correctly performed the processing service according to the Service Level Agreement.

Nonetheless, McKinnin et al discloses the method comprising issuing an assertion to a subcontractor that indicates the subcontractor correctly performed the processing service according to the Service Level Agreement (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of Service Level Agreement, taught by McKinnin et al, in the system of Ando in view of Logan et al for the purpose of monitoring/measuring the level of service provided to users/third-party.

Consider Claim 5, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method of claim 4, wherein the assertion is certified to reduce the incidence of fraudulent assertions (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 6, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method of claim 4, wherein receiving an assertion that confirms the Service Level Agreement was satisfied (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 7, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method according to claim 6, further comprising receiving a volume of assertions from subscribers as indications of trust that each subscriber's Service Level Agreement will be satisfied (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 8, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method according to claim 6, wherein when the service level agreement is satisfied, and the subscriber fails to provide the assertion, then further comprising denying communications services to the subscriber (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 13, Logan et al in view of Ando, and in further view of McKinnin et al disclose the method according to claim 4, further comprising processing a segment according to the Service Level Agreement (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4-8, 10-13, 15, 16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Sikri whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

January 29, 2008

